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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BRAHAN, THOMAS J

ART UNIT PAPER NUMBER

3652

DATE MAILED: 10/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/644,923

Applicant(s)

BURKETT

Examiner

Thomas J. Brahan

Art Unit

3652



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jul 8, 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

3. Claims 1, 4, 6-8, 11, 17, and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Longert. Longert shows a mobile crane apparatus comprising:

a trailer supported by at least a pair of wheels;

a hydraulically operated crane (26) having a center post and a boom, the centerpost supported to extend upwardly from a central region of the trailer (as longitudinally viewed in figure 1); and

a crane operator control station (34) carried by the trailer.

A power unit (5) is carried by the trailer, as recited in claims 4 and 11. The control station has a control panel and a seat, as recited in claim 6-8, and 11. The pair of wheels on the same side of the trailer are spaced substantially equidistant from the centerpost, as recited in claim 23. Note that the frame of the trailer is extendable as to be adjusted, if the positions in the drawings are not considered substantially equidistant.

4. Claims 1, 4, 6, 7, 9-11, 17, 22, 23, and 25 are rejected under 35 U.S.C. § 102(b) as being anticipated by Newton. Newton shows a mobile crane apparatus comprising:

a trailer supported by at least a pair of wheels (32);  
a hydraulically operated crane (C) having a center post (61) and a boom, the centerpost supported to extend upwardly from a central region of the trailer (as transversely viewed in figure 6); and  
a crane operator control station (63) carried by the trailer.

A power unit (5) is carried by the trailer, see column 5, lines 29-32, as recited in claims 4 and 11. The control station has a control panel and a seat, as recited in claim 6, 7, and 11. Outriggers are located on corners which can be considered as at the back of the trailer, as they are behind the operator, as recited in claims 9 and 10. Cylinders (66) are mounted longitudinally on the trailer, as recited in claim 19. Each wheel of the pair of wheels is spaced substantially equidistant from the crane centerpost, as recited in claims 22, 23, and 25.

5. Claims 1, 4, 6-11, 17, 22, 23, and 25 rejected under 35 U.S.C. § 102(b) as being anticipated by Peterson et al. Peterson et al shows a mobile crane apparatus comprising:

a trailer (12) supported by at least a pair of wheels (13);  
a hydraulically operated crane (C) having a center post (61) and a boom, the centerpost supported to extend upwardly from a central region of the trailer (as transversely viewed); and  
a crane operator control station (22) carried by the trailer.

A power unit (16) is carried by the trailer, as recited in claims 4 and 11. The control station has a control panel and a seat, as recited in claim 6, 7, and 11. As the crane cab rotates with the boom, it can face perpendicular to the longitudinal axis of the trailer, as recited in claim 8. It has outriggers at all the corners, as to have outriggers at the back of the trailer, as recited in claims 9 and 10. Each wheel of the pair of wheels is spaced substantially equidistant from the crane centerpost, as recited in claims 22, 23 and 25.

6. Claims 1, 4, 6, 7, 9, 10, 11 17, 22, 23, and 25 rejected under 35 U.S.C. § 102(b) as being anticipated by Cook. Cook shows a mobile crane apparatus comprising:

a trailer supported by at least a pair of wheels (4);  
a hydraulically operated crane having a center post (15) and a boom (7), the centerpost supported to extend upwardly from a central region of the trailer (as transversely viewed, or as viewed longitudinally and transversely, depending on the size of the central region); and  
a crane operator control station (14) carried by the trailer.

A power unit (at 13) is carried by the trailer, as recited in claims 4 and 11. The control station has a control panel and a seat, as recited in claim 6, 7, and 11. As the crane cab rotates with the boom, it can face perpendicular to the longitudinal axis of the trailer, as recited in claim 8. It has hydraulic outriggers (10) at the back corners, as recited in claims 9 and 10. Each wheel of the pair of wheels is spaced substantially equidistant from the crane centerpost, as recited in claims 22, 23 and 25.

7. Claims 3 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Newton, Longert, Peterson et al or Cook. The width of the tires chosen for these trailers would have been an obvious design concern, depending on the intended terrain.


8. Claims 1, 2, 4, 5-7, 9-18, 21-23, and 25 are rejected under 35 U.S.C. § 103(b) as being unpatentable over Haverkamp et al in view of Cook. Haverkamp et al shows a vibratory sheet pile driver and discloses that these pile drives are supported by cranes or by backhoes, see column 1, lines 9-19. It varies from the claims by not specifying that the backhoes are trailer mounted. Cook shows a portable trailer mounted backhoe. It would have been obvious to one of ordinary skill in the art to mount the pile drive of Haverkamp et al on a small trailer backhoe type vehicle, as to have it easily transported, as taught by Cook. The boom of Cook can be rotated to position its cylinders along a longitudinal axis of the trailer, as recited in claim 13. The relative dimensions of the trailer and its equipment, as to have 50% of the weight of the device being the crane, as recited in claim 21, and the location of a pile driver cradle, as recited in claims 15 and 16, would have been obvious design expedients, within the limits of routine skill in the art.

9. Claims 19 and 20 are rejected under 35 U.S.C. § 103(b) as being unpatentable over Haverkamp et al in view of Cook, as applied above to claim 17, and further in view of Newton. Haverkamp et al, as modified, shows the basic claimed combination, but varies from the claims by not having a longitudinal slewing cylinder for the crane. Newton shows a similar trailer mounted crane with slewing cylinders (66). It would have been obvious to one of ordinary skill in the art to modify the crane of Cook by using a pair of longitudinally mounted cylinders to slew the boom, for a robust slewing mechanism, as taught by Newton. The seat of Cook is in front of and extends laterally of the crane, just as applicant's seat is mounted lateral of and extends in front of its crane, as recited in claim 20.

10. Applicant argues in the amendment filed July 8, 2002, that the crane of Newton is not mounted in a central region of the trailer. However the term "central region" is broad and reads on locations which are central transversely or longitudinally, but not necessarily both. Also, as the size of the region can be quite large, any region sufficiently large can be considered as central and including the crane. Applicant's remaining remarks in the amendment have been fully considered, but are deemed moot in view of the above new rejections. Applicant's amendment necessitated the new grounds, accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. An inquiry concerning this action should be directed to Examiner Thomas J. Brahan at telephone number (703) 308-2568 on Mondays through Fridays from 9:30-7:00 EST. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for Technology Center 3600 is (703) 305-7687.

 10/1/02  
THOMAS J. BRAHAN  
PRIMARY EXAMINER